THE SECOND SCHEDULE.

ARBITRATION.

Arbitration in suits.

Parties to suit may apply for order of reference.

1. (1) Where in any suit all the parties interested agree that any matter in difference between them shall be referred to arbitration, they may, at any time before judgment is pronounced, apply to the Court for an order of reference.

(2) Every such application shall be in writing and shall state the matter sought to be referred.

Appointment of arbitrator.

2. The arbitrator shall be appointed in such manner as may be agreed upon between the parties.

Order of reference.

3. (1) The Court shall, by order, refer to the arbitrator the matter in difference which he is required to determine, and shall fix such time as it thinks reasonable for the making of the award, and shall specify such time in the order.

(2) Where a matter is referred to arbitration, the Court shall not, save in the manner and to the extent provided in this schedule, deal with such matter in the same suit.

Where reference is to two or more, order to provide for difference of opinion.

4. (1) Where the reference is to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators—

(*a*) by the appointment of an umpire; or

(*b*) by declaring that, if the majority of the arbitrators agree, the decision of the majority shall prevail; or

(*c*) by empowering the arbitrators to appoint an umpire; or

(*d*) otherwise as may be agreed between the parties or, if they cannot agree, as the Court may determine.

(2) Where an umpire is appointed, the Court shall fix such time as it thinks reasonable for the making of his award in case he is required to act.

Power of Court to appoint arbitrator in certain cases.

5. (1) In any of the following cases, namely:—

(*a*) where the parties cannot agree within a reasonable time with respect to the appointment of an arbitrator, or the person appointed refuses to accept the office of arbitrator, or

(*b*) where an arbitrator or umpire—

(i) dies, or

(ii) refuses or neglects to act or becomes incapable of acting, or

(iii) leaves Mysore in circumstances showing that he will probably not return at an early date, or

(*c*) where the arbitrators are empowered by the order of reference to appoint an umpire and fail to do so.

any party may serve the other party or the arbitrators, as the case may be, with a written notice to appoint an arbitrator or umpire.

(2) If, within seven clear days after such notice has been served or such further time as the Court may in each case allow, no arbitrator or no umpire is appointed, as the case may be, the Court may, on application by the party who gave the notice, and after giving the other party an opportunity of being heard, appoint an arbitrator or umpire or make an order superseding the arbitration, and in such case shall proceed with the suit.

Powers of arbitrator or umpire appointed under paragraph 4 or 5.

6. Every arbitrator or umpire appointed under paragraph 4 or paragraph 5 shall have the like powers as if his name had been inserted in the order of reference.

Summoning witnesses and default.

7. (1) The Court shall issue the same processes to the parties and witnesses whom the arbitrator or umpire desires to examine, as the Court may issue in suits tried before it.

(2) Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitrator or umpire during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments, by order of the Court on the representation of the arbitrator or umpire, as they would incur for the like offences in suits tried before the Court.

Extension of time for making award.

8. Where the arbitrators or the umpire cannot complete the award within the period specified in the order, the Court may, if it thinks fit, either allow further time, and from time to time either before or after the expiration of the period fixed for the making of the award, enlarge such period; or may make an order superseding the arbitration, and in such case shall, proceed with the suit.

9. Where an umpire has been appointed, he may enter on the reference in the place of the arbitrators,—

Where umpire may arbitrate in lieu of arbitrators.

(*a*) if they have allowed the appointed time to expire without making an award, or

(*b*) if they have delivered to the Court or to the umpire a notice in writing stating that they cannot agree.

10. Where an award in a suit has been made, the persons who made it shall sign it and cause it to be filed in Court, together with any depositions and documents which have been taken and proved before them; and notice of the filing shall be given to the parties.

Award to be signed and filed.

11. Upon any reference by an order of the Court, the arbitrator or umpire may, with the leave of the Court, state the award as to the whole or any part thereof in the form of a special case for the opinion of the Court, and the Court shall deliver its opinion thereon, and shall order such opinion to be added to and to form part of the award.

Statement of special case by arbitrators or umpire.

12. The Court may, by order, modify or correct an award,—

Power to modify or correct award.

(*a*) where it appears that a part of the award is upon a matter not referred to arbitration and such part can be separated from the other part and does not affect the decision on the matter referred; or

(*b*) where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision; or

(*c*) where the award contains a clerical mistake or an error arising from an accidental slip or omission.

13. The Court may also make such order as it thinks fit respecting the costs of the arbitration where any question arises respecting such costs and the award contains no sufficient provision concerning them.

Order as to costs of arbitration.

14. The Court may remit the award or any matter referred to arbitration to the re-consideration of the same arbitrator or umpire, upon such terms as it thinks fit,—

Where award or matter referred to arbitration, may be remitted.

(*a*) where the award has left undetermined any of the matters referred to arbitration, or where it determines any matter not referred to arbitration, unless such matter can be separated without affecting the determination of the matters referred;

(*b*) where the award is so indefinite as to be incapable of execution;

(*c*) where an objection to the legality of the award is apparent upon the face of it.

15. (1) An award remitted under paragraph 14 becomes void on failure of the arbitrator or umpire to re-consider it. But no award shall be set aside except on one of the following grounds, namely:—

Grounds for setting aside award.

(*a*) corruption or misconduct of the arbitrator or umpire;

(*b*) either party having been guilty of fraudulent concealment of any matter which he ought to have disclosed, or of wilfully misleading or deceiving the arbitrator or umpire;

(*c*) the award having been made after the issue of an order by the Court superseding the arbitration and proceeding with the suit or after the expiration of the period allowed by the Court, or being otherwise invalid.

(2) Where an award becomes void or is set aside under clause (1), the Court shall make an order superseding the arbitration and in such case shall proceed with the suit.

16. (1) Where the Court sees no cause to remit the award or any of the matters referred to arbitration for re-consideration in manner aforesaid, and no application has been made to set aside the award, or the Court has refused such application, the Court shall, after the time for making such application has expired, proceed to pronounce judgment according to the award.

Judgment to be according to award.

(2) Upon the judgment so pronounced a decree shall follow, and no appeal shall lie from such decree except in so far as the decree is in excess of, or not in accordance with the award.

Order of reference on agreements to refer.

17. (1) Where any persons agree in writing that any difference between them shall be referred to arbitration, the parties to the agreement, or any of them, may apply to any Court having jurisdiction in the matter to which the agreement relates, that the agreement be filed in Court.

Application to file in Court agreement to refer to arbitration.

(2) The application shall be in writing and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the others or other of them as defendants or defendant, if

the application has been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

(3) On such application being made, the Court shall direct notice thereof to be given to all the parties to the agreement, other than the applicants, requiring such parties to show cause, within the time specified in the notice, why the agreement should not be filed.

(4) Where no sufficient cause is shown, the Court shall order the agreement to be filed, and shall make an order or reference to the arbitrator appointed in accordance with the provisions of the agreement or, if there is no such provision and the parties cannot agree, the Court may appoint an arbitrator.

Stay of suit where there is an agreement to refer to arbitration.

18. Where any party to any agreement to refer to arbitration, or any person claiming under him, institutes any suit against any other party to the agreement, or any person claiming under him, in respect of any matter agreed to be referred, any party to such suit may, at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, apply to the Court to stay the suit: and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the agreement to refer to arbitration, and that the applicant was, at the time when the suit was instituted and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the suit.

Provisions applicable to proceedings under paragraph 17.

19. The foregoing provisions, so far as they are consistent with any agreement filed under paragraph 17, shall be applicable to all proceedings under the order of reference made by the Court under that paragraph, and to the award and to the decree following thereon.

Arbitration without the intervention of a Court.

Filing award in matter referred to arbitration without intervention of Court.

20. (1) Where any matter has been referred to arbitration without the intervention of a Court and an award has been made thereon, any person interested in the award may apply to any Court having jurisdiction over the subject matter of the award that the award be filed in Court.

(2) The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

(3) The Court shall direct notice to be given to the parties to the arbitration, other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

Filing and enforcement of such award.

21. (1) Where the Court is satisfied that the matter has been referred to arbitration and that an award has been made thereon and where no ground such as is mentioned or referred to in paragraph 14 or paragraph 15 is proved, the Court shall order the award to be filed and shall proceed to pronounce judgment according to the award.

(2) Upon the judgment so pronounced a decree shall follow, and no appeal shall lie from such decree except in so far as the decree is in excess of or not in accordance with the award.

Exclusion of certain words in the Specific Relief Act, 1877.

22. The last thirty-seven words of section 21 of the Specific Relief Act, 1877, as applicable to Mysore, shall not apply to any agreement to refer to arbitration or to any award, to which the provisions of this schedule apply.

Forms.

23. The forms set forth in the Appendix, with such variations as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

APPENDIX.

No. 1.

APPLICATION FOR AN ORDER OF REFERENCE.

(*Title of suit.*)

1. This suit is instituted for *state nature of claim.*
2. The matter in difference between the parties is *state matter of difference.*
3. The applicants being all the parties interested have agreed that the matter in difference between them shall be referred to arbitration.
4. The applicants therefore apply for an order of reference.

A. B.
C. D.

Dated the day of 19 .

NOTE.—If the parties are agreed as to the arbitrators it should be so stated.

No. 2.

ORDER OF REFERENCE.

Title of suit.

Upon reading the application presented on the day of 19 it is ordered that the following matter in difference arising in this suit, namely :—

.....

.....

be referred for determination to X and Y, or in case of their not agreeing then to the determination of Z, who is hereby appointed to be umpire ; and such arbitrators are to make their award in writing on or before the day of 19 , and in case of the said arbitrators not agreeing in an award the said umpire is to make his award in writing within months after the time during which it is within the power of the arbitrators to make an award shall have ceased.

Liberty to apply.

GIVEN under my hand and the seal of the Court, this day of 19 .

Judge.

No. 3.

ORDER FOR APPOINTMENT OF NEW ARBITRATOR.

(*Title of suit.*)

Whereas by an order, dated the day of 19 [*state order of reference and death, refusal, etc., of arbitrator*], it is by consent ordered that Z be appointed in the place of X, deceased, (or as the case may be) to act as arbitrator with Y, the surviving arbitrator, under the said order ; and it is ordered that the award of the said arbitrators be made on or before the day of 19 .

GIVEN under my hand and the seal of the Court, this day of 19 .

Judge.

No. 4.

SPECIAL CASE.

(*Title of suit.*)

In the matter of an arbitration between A. B. of and C. D. of , the following special case is stated for the opinion of the Court. —

[*Here state the facts concisely in numbered paragraphs.*]

The questions of law for the opinion of the Court are :—

First whether.....

.....

Secondly, whether.....

.....

X.
Y.

Dated the day of 19 .

No. 5.

AWARD.

(*Title of suit.*)

In the matter of an arbitration between A. B. of and C. D. of :—

WHEREAS in pursuance of an order of reference made by the Court of and dated the day of 19 the following matter in difference between A. B. and C. D., namely,.....

.....

has been referred to us for determination ;

Now we, having duly considered the matter referred to us, do hereby make our award as follows :—

We award—

(1) that.....

(2) that.....

Dated the day of 19 .

X.
Y.

THE THIRD SCHEDULE.

EXECUTION OF DECREES BY DEPUTY COMMISSIONERS.

Powers of Deputy Commissioner.

1. Where the execution of a decree has been transferred to the Deputy Commissioner under section 68, he may,—

(*a*) proceed as the Court would proceed when the sale of immovable property is postponed in order to enable the judgment-debtor to raise the amount of the decree; or

(*b*) raise the amount of the decree by letting in perpetuity, or for a term, on payment of a premium, or by mortgaging, the whole or any part of the property ordered to be sold; or

(*c*) sell the property ordered to be sold or so much thereof as may be necessary.

Procedure of Deputy Commissioner in special cases.

2. Where the execution of a decree, not being a decree ordering the sale of immovable property in pursuance of a contract specifically affecting the same, but being a decree for the payment of money in satisfaction of which the Court has ordered the sale of immovable property, has been so transferred, the Deputy Commissioner, if, after such inquiry as he thinks necessary, he has reason to believe that all the liabilities of the judgment-debtor can be discharged without a sale of the whole of his available immovable property, may proceed as hereinafter provided.

Notice to be given to decree-holders and to persons having claims on property.

3. (1) In any such case as is referred to in paragraph 2, the Deputy Commissioner shall publish a notice, allowing a period of sixty days from the date of its publication for compliance and calling upon—

(*a*) every person holding a decree for the payment of money against the judgment-debtor capable of execution by sale of his immovable property and which such decree-holder desires to have so executed, and every holder of a decree for the payment of money in execution of which proceedings for the sale of such property are pending, to produce before the Deputy Commissioner a copy of the decree, and a certificate from the Court which passed or is executing the same, declaring the amount recoverable thereunder;

(*b*) every person having any claim on the said property to submit to the Deputy Commissioner a statement of such claim, and to produce the documents (if any) by which it is evidenced.

(2) Such notice shall be published by being affixed on a conspicuous part of the Court-house of the Court which made the original order for sale, and in such other places (if any) as the Deputy Commissioner thinks fit; and where the address of any such decree-holder or claimant is known, a copy of the notice shall be sent to him by post or otherwise.

Amount of decrees for payment of money to be ascertained, and immovable property available for their satisfaction.

4. (1) Upon the expiration of the said period, the Deputy Commissioner shall appoint a day for hearing any representations which the judgment-debtor and the decree-holders or claimants (if any) may desire to make, and for holding such inquiry as he may deem necessary for informing himself as to the nature and extent of such decrees and claims and of the judgment-debtor's immovable property: and may, from time to time, adjourn such hearing and inquiry.

(2) Where there is no dispute as to the fact or extent of the liability of the judgment-debtor to any of the decrees or claims of which the Deputy Commissioner is informed, or as to the relative priorities of such decrees or claims, or as to the liability or any such property for the satisfaction of such decrees or claims, the Deputy Commissioner shall draw up a statement, specifying the amount to be recovered for the discharge of such decrees, the order in which such decrees and claims are to be satisfied, and the immovable property available for that purpose.

(3) Where any such dispute arises, the Deputy Commissioner shall refer the same, with a statement thereof and his own opinion thereon, to the Court which made the original order for sale, and shall, pending the reference, stay proceedings relating to the subject thereof. The Court shall dispose of the dispute if the matter thereof is within its jurisdiction, or transmit the case to a competent Court for disposal, and the final decision shall be communicated to the Deputy Commissioner, who shall then draw up a statement as above provided in accordance with such decision.

Where District Court may issue notices and hold inquiry.

5. The Deputy Commissioner may, instead of himself issuing the notices and holding the inquiry required by paragraphs 3 and 4, draw up a statement specifying the circumstances of the judgment-debtor and of his immovable property so far as they are known to the Deputy Commissioner or appear in the records of his office, and

forward such statement to the District Court; and such Court shall thereupon issue the notices, hold the inquiry and draw up the statement required by paragraphs 3 and 4 and transmit such statement to the Deputy Commissioner.

Effect of decision of Court as to dispute.

6. The decision by the Court of any dispute arising under paragraph 4 or paragraph 5 shall, as between the parties thereto, have the force of and be appealable as a decree.

Scheme for liquidation of decrees for payment of money.

7. (1) Where the amount to be recovered and the property available have been determined as provided in paragraph 4 or paragraph 5, the Deputy Commissioner may,—

(*a*) if it appears that the amount cannot be recovered, without the sale of the whole of the property available, proceed to sell such property; or

(*b*) if it appears that the amount with interest (if any) in accordance with the decree, and, when not decreed, with interest (if any) at such rate as he thinks reasonable, may be recovered without such sale, raise such amount and interest (notwithstanding the original order for sale)—

(*i*) by letting in perpetuity or for a term, on payment of a premium, the whole or any part of the said property; or

(*ii*) by mortgaging the whole or any part of such property; or

(*iii*) by selling part of such property; or

(*iv*) by letting on farm, or managing by himself or another, the whole or any part of such property for any term not exceeding twenty years from the date of the order of sale; or

(*v*) partly by one of such modes, and partly by another or others of such modes.

(2) For the purpose of managing the whole or any part of such property, the Deputy Commissioner may exercise all the powers of its owner.

(3) For the purpose of improving the saleable value of the property available or any part thereof, or rendering it more suitable for letting or managing or for preserving the property from sale in satisfaction of an incumbrance the Deputy Commissioner may discharge the claim of any incumbrancer which has become payable or compound the claim of any incumbrancer whether it has become payable or not, and, for the purpose of providing funds to effect such discharge or composition, may mortgage, let or sell any portion of the property which he deems sufficient. If any dispute arises as to the amount due on any incumbrance with which the Deputy Commissioner proposes to deal under this clause, he may institute a suit in the proper Court, either in his own name or the name of the judgment-debtor, to have an account taken, or he may agree to refer such dispute to the decision of two arbitrators, one to be chosen by each party, or of an umpire to be named by such arbitrators.

(4) In proceeding under this paragraph the Deputy Commissioner shall be subject to such rules consistent with this Regulation as may, from time to time, be made in this behalf by the Government.

Recovery of balance (if any) after letting or management.

8. Where, on the expiration of the letting or management under paragraph 7, the amount to be recovered has not been realized, the Deputy Commissioner shall notify the fact in writing to the judgment-debtor or his representative in interest, stating at the same time that, if the balance necessary to make up the said amount is not paid to the Deputy Commissioner within six weeks from the date of such notice, he will proceed to sell the whole or a sufficient part of the said property; and, if on the expiration of the said six weeks the said balance is not so paid, the Deputy Commissioner shall sell such property or part accordingly.

Deputy Commissioner to render accounts to Court.

9. (1) The Deputy Commissioner shall, from time to time, render to the Court which made the original order for sale an account of all moneys which come to his hands and of all charges incurred by him in the exercise and performance of the powers and duties conferred and imposed on him under the provisions of this schedule, and shall hold the balance at the disposal of the Court.

(2) Such charges shall include all debts and liabilities from time to time due to the Government in respect of the property or any part thereof, the rent (if any) from time to time due to a superior holder in respect of such property or part, and if the Deputy Commissioner so directs, the expenses of any witnesses summoned by him.

(3) The balance shall be applied by the Court—

(*a*) in providing for the maintenance of such members of the judgment-debtor's family (if any) as are entitled to be maintained out of the income of the property, to such amount in the case of each member as the Court thinks fit; and,

(*b*) where the Deputy Commissioner has proceeded under paragraph 1, in satisfaction of the original decree in execution of which the Court ordered the sale of immovable property, or otherwise as the Court may under Section 73 direct; or

(*c*) where the Deputy Commissioner has proceeded under paragraph 2,—

(*i*) in keeping down the interest on incumbrances on the property;

(*ii*) where the judgment-debtor has no other sufficient means of subsistence, in providing for his subsistence to such amount as the Court thinks fit; and

(*iii*) in discharging rateably the claims of the original decree-holder and any other decree-holders who have complied with the said notice and whose claims were included in the amount ordered to be recovered.

(4) No other holder of a decree for the payment of money shall be entitled to be paid out of such property or balance until the decree-holders who have obtained such order have been satisfied, and the residue (if any) shall be paid to the judgment-debtor or such other person as the Court directs.

Sales how to be conducted.

10. Where the Deputy Commissioner sells any property under this schedule, he shall put it up to public auction in one or more lots, as he thinks fit, and may—

(*a*) fix a reasonable reserved price for each lot;

(*b*) adjourn the sale for a reasonable time whenever, for reasons to be recorded, he deems the adjournment necessary for the purpose of obtaining a fair price for the property;

(*c*) buy in the property offered for sale, and re-sell the same by public auction or private contract, as he thinks fit.

Restrictions as to alienation by judgment-debtor or his representative, and prosecution of remedies by decree-holders.

11. (1) So long as the Deputy Commissioner can exercise or perform in respect of the judgment-debtor's immovable property, or any part thereof, any of the powers or duties conferred or imposed on him by paragraphs 1 to 10, the judgment-debtor or his representative in interest shall be incompetent to mortgage, charge, lease or alienate such property or part except with the written permission of the Deputy Commissioner, nor shall any Civil Court issue any process against such property or part in execution of a decree for the payment of money.

(2) During the same period no Civil Court shall issue any process of execution either against the judgment-debtor or his property in respect of any decree for the satisfaction whereof provision has been made by the Deputy Commissioner under paragraph 7.

(3) The same period shall be excluded in calculating the period of limitation applicable to the execution of any decree affected by the provisions of this paragraph in respect of any remedy of which the decree-holder has been temporarily deprived.

Provision where property is in several districts.

12. Where the property of which the sale has been ordered is situate in more districts than one, the powers and duties conferred and imposed on the Deputy Commissioner by paragraphs 1 to 10 shall be exercised and performed by such one of the Deputy Commissioners of the said districts as the Government may by general rule or special order direct.

Powers of Deputy Commissioner to compel attendance and production.

13. In exercising the powers conferred on him by paragraphs 1 to 10 the Deputy Commissioner shall have the powers of a Civil Court to compel the attendance of parties and witnesses and the production of documents.

THE FOURTH SCHEDULE.

(*See section 155.*)

ENACTMENTS AMENDED.

Year	No.	Short title	Amendment
1	2	3	4
1890	II	A Regulation to amend the Mysore Chief Court Regulation, I of 1884.	For the second sentence in sub-section (3) of section 15, the following shall be substituted, namely :— "When a Bench of the Chief Court consists of only two judges and there is a difference of opinion between such judges on any material question pending before it, such question shall be disposed of in the manner prescribed in section 98 of the Civil Procedure Code, or section 429 of the Criminal Procedure Code, as the case may be, or at the discretion of either of the judges composing the Bench, it shall be referred to a Full Bench and the decision of the majority of the judges on such Full Bench shall be the decision of the Chief Court.
1900	III	The Mysore Court-fees Regulation, 1900.	In Article 1 of Schedule I, after the word "plaint" the words "written statement pleading a set-off or counterclaim" and after the word "Regulation" the words "or of cross-objection" shall be inserted. From Article 7 of Schedule II the words "from an order rejecting a plaint or" shall be omitted. For the entry in the first column of Schedule II relating to Article 13 the following entry shall be substituted, namely :— "Agreement in writing stating a question for the opinion of the Court under the Code of Civil Procedure, 1911.